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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

LEILANI JIMENEZ, individually, and as
successor-in-interest for Decedent DENNIS
JIMENEZ; J.J., a minor, by and through his
guardian ad litem Leilani Jimenez; D.J., a
minor, by and through her guardian ad litem
Leilani Jimenez, and DENNIS JIMENEZ, Jr.
an individual,

Plaintiffs,

v.

COUNTY OF ALAMEDA, a municipal
corporation and DOES 1-50, individually,
inclusive;

Defendants.

Case No.:

COMPLAINT FOR DAMAGES
(42 U.S.C. § 1983 and pendent tort
claims)

JURY TRIAL DEMANDED

INTRODUCTION

1 successor-in-interest to her husband, Decedent DENNIS JIMENEZ and on behalf
2 of Minor Plaintiffs J.J. and D.J. as their Guardian Ad Litem.

3 5. Minor Plaintiff J.J. is the son of Decedent DENNIS JIMENEZ and
4 Plaintiff LEILANI JIMENEZ. He is being represented in this action by his
5 Guardian Ad Litem, Leilani Jimenez.

6 6. Minor Plaintiff D.J. is the daughter of Decedent DENNIS
7 JIMENEZ and Plaintiff LEILANI JIMENEZ. She is being represented in this
8 action by her Guardian Ad Litem, Leilani Jimenez.

9 7. Plaintiff DENNIS JIMENEZ JR., is at all times mentioned herein, a
10 competent adult and a United States Citizen. He is the biological son of
11 Decedent DENNIS JIMENEZ and he is suing in his individual capacity.

12 8. Defendant COUNTY OF ALAMEDA (Hereinafter "COUNTY") is,
13 and at all times herein mentioned, a municipal entity duly organized and existing
14 under the laws of the State of California. Under its authority, the COUNTY OF
15 ALAMEDA operates the Santa Rita Jail Facility.

16 9. Plaintiffs are ignorant of the true names and/or capacities of
17 Defendants sued herein as DOES 1 through 100, inclusive, and therefore sue said
18 Defendants by such fictitious names. Plaintiffs will amend this complaint to
19 allege their true names and capacities when ascertained. Plaintiffs believe and
20 allege that each of the DOE defendants is legally responsible in some manner for
21 the injuries and damages sustained by Plaintiffs as set forth herein. Each
22 Defendant proximately caused injuries and damages because of their actions,
23 inaction, negligence, breach of duty, negligent supervision, management or
24 control, violation of public policy, false arrests and unlawful use of force. Each
25 Defendant is liable for his/her personal conduct, vicarious or imputed
26 negligence, fault, or breach of duty, whether severally or jointly, or whether
27 based upon agency, employment, ownership, entrustment, custody, care or
28 control or upon any other act or omission. Plaintiffs will ask leave to amend this
complaint subject to further discovery.

10. In doing the acts alleged herein, Defendants, and each of them
acted within the course and scope of their employment.

(Wrongful Death - 42 U.S.C. §1983)

25. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 24 of this Complaint.

26. As set forth above, Plaintiffs were subjected to deprivation of rights by Defendants DOES 1-50, inclusive, acting under color of law of the United States and State of California and of the County of Alameda which rights include, but are not limited to, privileges and immunities secured to Plaintiffs by the Constitution and laws of the United States. By reason of the aforementioned acts, these Defendants, have violated the constitutional rights and liberty interests of Decedent DENNIS JIMENEZ, including those provided in the Eighth and Fourteenth Amendments to the U.S. Constitution and each Plaintiff, as well as those which are protected under the Fourth and Fourteenth Amendment's prohibition against depriving a person of a right to familial relationships without due process of law.

27. Defendants DOES 1 through 50 knew or should have known of Decedent DENNIS JIMENEZ'S serious medical, physical and mental health condition, particularly that he had attempted to commit suicide three weeks prior to his death, were deliberately indifferent to them, ignored them failed to provide medical or mental health intervention and care for him.

28. Defendants knew that DENNIS JIMENEZ was suffering from a mental disability and was a high-risk candidate for suicide. Nevertheless, Defendants ignored his clear need for medical and mental health care, and failed to engage in adequate welfare checks.

29. Defendants knew and/or had reason to know, that DENNIS JIMENEZ had serious but treatable mental health condition that required care and treatment. As a result of Defendants' deliberate indifference, DENNIS JIMENEZ was deprived of the necessary and indicated medical intervention, care and treatment. Without proper treatment or follow-up care, his mental state deteriorated, causing him to continue to suffer pain and mental anguish in violation of his Eighth and Fourteenth Amendment rights resulting in his wrongful death.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

(Violations of Plaintiffs' Right to Familial Relationship - 42 U.S.C. § 1983)

(Plaintiffs LEILANI JIMENEZ, J.J., D.J., and DENNIS JIMENEZ, Jr., Against
Defendants and DOES 1-50)

30. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 29 of this Complaint as though fully set forth;

31. As a legal cause of Defendants, acting under color of law, acts and/or inactions, Plaintiffs were deprived of their constitutional rights to a familial relationship, and whose deliberate indifference caused injuries which resulted in decedent's death, all in violation of rights, privileges, and immunities secured by the Fourth and Fourteenth Amendments to the United States Constitution.

32. Defendants attempted to conceal their actions and hide the true cause of Decedent's demise to deprive Plaintiffs of their right to seek redress, all in violation of rights, privileges, and immunities secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution.

33. Defendants' conduct deprived Plaintiffs, decedent's wife and children, of their right to a relation with their husband and father, respectively. Defendants' failure to monitor decedent caused his injuries, which resulted in decedent's death.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

THIRD CAUSE OF ACTION

(*Monell*- 42 U.S.C. § 1983)

(Plaintiffs LEILANI JIMENEZ, J.J., D.J., and DENNIS JIMENEZ, Jr., Against
Defendants COUNTY and DOES 1-50)

34. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 33 of this Complaint.

1 35. The aforementioned acts and/or omissions of the Defendants COUNTY,
2 and DOES 1-50 in being deliberately indifferent to Decedent DENNIS JIMENEZ's
3 serious medical needs and safety and violating his civil rights were the direct and
4 proximate result of customs, practices and policies of Defendant COUNTY and DOES 1
5 through 50, as alleged herein.
6

7 36. At all times herein mentioned, Defendants COUNTY and DOES 1 through
8 50 maintained a policy or de facto unconstitutional informal custom or practice of
9 permitting, ignoring and condoning, Jail personnel to delay in providing adequate
10 mental health and medical assistance for the protection of the health or safety of
11 inmates; failing to properly observe and treat inmates, including inadequate: intake and
12 screening and evaluation, diagnosis, referral to mental health professionals, treatment
13 plans, administration of delivery of medications, medical record keeping, staffing,
14 communication between medical, mental health and custodial staff, housing,
15 supervision, access to mental and medical health care, failure to supervise, lax
16 supervision, failure to report, investigate, and reprimand Jail personnel wrongful
17 conduct
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19

20 37. Plaintiffs allege that Defendant COUNTY maintained a policy, custom or
21 practice of failing to provide adequate staff in the Jail causing a failure to properly
22 monitor the inmates.
23

24 38. Plaintiffs allege that Defendant COUNTY maintained a policy, custom or
25 practice of failing to provide the Jail with adequate mental health personnel.
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1 39. Each policy, custom or practice posed a substantial risk of serious harm to
2 Decedent JIMENEZ and Defendant COUNTY knew, or should have known, its policy
3 posed this risk.
4

5 40. Plaintiffs are further informed and believe and thereon allege that as a
6 result of the deliberate indifference, reckless and/or conscious disregard of the
7 misconduct by Defendant DOES 1-50, and/or each of them, Defendant COUNTY,
8 DOES 1-50, and/or each of them, encouraged the Jail personnel to continue their course
9 of deliberate indifference and caused this lack of training in Jail personnel, resulting in
10 the violation of the Plaintiffs' rights as alleged herein.
11

12 41. The aforementioned acts and/or omissions and/or deliberate indifference
13 by high ranking ALAMEDA COUNTY officials, including high ranking ALAMEDA
14 COUNTY Sheriff's Department Supervisors, DOES 1-50, and each of them resulted in
15 the deprivation of Plaintiffs' constitutional rights. These customs, practices or policies
16 were the legal cause of Plaintiffs' injuries, and each individual Defendant acting in
17 accord with this custom, policy or practice acted with deliberate indifference to the
18 needs of persons such as Decedent DENNIS JIMENEZ, who was in the custody and
19 care of Defendants.
20

21 46. Said rights are substantive guarantees under the Fourth, Eighth, and/or
22 Fourteenth Amendments to the United States Constitution.
23

24 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

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26 FOURTH CAUSE OF ACTION
27 (Wrongful Death - Negligence)
28 (C.C.P. §377.60 and 377.61)

(Plaintiffs LEILANI JIMENZ, J.J., D.J., and DENNIS JIMENEZ JR., against
Defendants and DOES 1-50)

47. Plaintiffs re-allege and incorporate by reference herein paragraphs 1 through 46 of this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

48. Defendants COUNTY, by and through its agents and employees, DOES 1 – 50 inclusive, proximately caused the death of decedent DENNIS JIMENEZ as a result of their negligent conduct and/or negligent failure to act as set-forth herein, for example, Defendants were aware that the Decedent made suicide attempts three weeks prior to his death; Defendants were aware that Decedent used a bed sheet to attempt suicide; Defendants returned Decedent to a jail cell with a bed sheet and he foreseeably committed suicide.

49. As an actual and proximate result of said defendants' negligence, and the death of decedent, plaintiff's LEILANI JIMENEZ, minors, J.J., D.J. and DENNIS JIMENEZ JR., have sustained pecuniary loss resulting from the loss of comfort, society, attention, services, and support of their father and husband, decedent, in an amount according to proof at trial.

50. As a further actual and proximate result of said defendants' negligence, and death of Decedent Plaintiffs incurred funeral and burial expenses, in an amount according to proof at trial.

51. Pursuant to California C.C.P. Sections 377.60 and 377.61, plaintiffs have brought this action, and claim damages from said defendants for the wrongful death of decedent, and the resulting injuries.

WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

JURY DEMAND

52. Plaintiffs hereby demand a jury trial in this action.

PRAYER

WHEREFORE, plaintiffs pray for relief, as follows:

- 1 1. For general damages in a sum to be determined according to proof;
- 2 2. For special damages, including but not limited to, past, present and/or future
- 3 wage loss, income and support, medical expenses and other special damages in a sum to be
- 4 determined according to proof;
- 5 3. For funeral and burial expenses according to proof;
- 6 4. For punitive damages and exemplary damages in amounts to be determined
- 7 according to proof as to Defendants and/or DOES 1 through 50 and/or each of them;
- 8 5. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
- 9 6. For cost of suit herein incurred.
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LAW OFFICES OF JOHN L. BURRIS

Dated: October 4, 2013

/s/ Ben Nisenbaum, Esq.
Benjamin Nisenbaum,
Attorney for the Plaintiffs